

**IN THE UNITED STATES BANKRUPTCY
COURT DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-1(b)

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IN RE:

NATIONAL REALTY INVESTMENT
ADVISORS, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 22-14539 (JKS)

(Jointly Administered)

**DOUGLAS ELLIMAN REAL ESTATE'S
MOTION PURSUANT TO THE LOCAL RULE FOR
THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT
OF NEW JERSEY 9013-2 FOR ORDER TO SHORTEN NOTICE ON ITS
MOTION TO COMPEL PAYMENT OF CO-BROKERAGE COMMISSIONS AT
CLOSING OF SALE OF DEBTOR PROPERTY AT (I) 494 7th STREET, UNIT NO. 1,
BROOKLYN, NY 11215 AND (II) 285 7th STREET, UNIT NO. 1, BROOKLYN, NY 11215**

TO THE HONORABLE JOHN K. SHERWOOD
UNITED STATES BANKRUPTCY JUDGE:

Douglas Elliman Real Estate (“Elliman”), by its undersigned attorneys hereby moves (the “Motion to Shorten time”), pursuant to rule 9013-2 of the Local Rules for the United States Bankruptcy Court for the District of New Jersey (the “Local Rules”) and Section 105 of Title 11 of the United States Code (the “Bankruptcy Code”) for the entry of an order directing the above-captioned debtors and debtors-in-possession (the “Debtors”) to pay Elliman’s earned broker

¹ A complete list of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <https://omniagentsolutions.com/NRIA>. The location of the Debtors’ service address is: 1 Harmon Plaza, Floor 9, Secaucus, New Jersey 07094.

commissions (the “Motion to Compel”) on the sale of: (i) Debtor Seventh Street Capital 494 LLC’s condominium property located at 494 7th Street Brooklyn, Unit No. 1, Brooklyn, NY 11215 (the “494 Property”), which is expected to close on August 9, 2022 and (ii) Debtor 7th Street Capital 285 LLC’s condominium property located at 285 7th Street, Unit No. 1, Brooklyn, NY 11215 (the “285 Property,” and with the 494 Property, the “Properties”), which closed on July 28, 2022.

PRELIMINARY STATEMENT

1. For the reasons addressed herein and in the Motion to Compel, Elliman requests that the Court schedule a hearing for no later than August 16, 2022 because the closing for the 285 Property has already occurred and the closing for the 494 Property is scheduled to occur on August 9, 2022. As the Debtors have not paid Elliman’s commissions in connection with the closing of 285 Property and appear unwilling to pay any commission due and owing in connection with the closing for 494 Property, this relief must be sought under expedited notice to ensure Elliman is timely paid for the critical work it performed on behalf of the Debtors’ estates.

2. Under the Local Rules, if this Motion to Compel were made on regular notice, it is not clear that the relief sought would ever be provided, given the Debtors’ refusal to pay other brokers’ commissions unless compelled to do so. Accordingly, Elliman submits that a hearing as soon as possible is necessary or Elliman’s right to timely payment will have been compromised.

3. In support of this Motion to Shorten, Elliman relies on and incorporates herewith the declarations of (1) Nadia Bartolucci, real estate salesperson for the 494 Property, (the “Bartolucci Declaration”) and (2) Shari Markoff, associate broker for the 285 Property, (the “Markoff Declaration,” and together with the Bartolucci Declaration, the “Declarations”), both

dated August 5, 2022 and filed contemporaneously herewith and (3) the Motion to Compel, which sets forth the facts and basis for the ultimate relief sought by Elliman.

4. In further support of the relief requested, Elliman respectfully states as follows:

RELIEF REQUESTED

5. By this motion, Elliman respectfully requests that the Court, pursuant to Local Rule 9013-2, Bankruptcy Rule 9006(c) and section 105(a) of the Bankruptcy Code, shorten the notice period required for relief on the Motion to Compel and for an order granting the relief set forth therein.²

6. Reduction of the notice time period for the Motion to Compel is not prohibited under Fed. R. Bankr. P 9006(c)(1).

JURISDICTION

7. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

8. The statutory predicates for this Motion to Shorten Time are Bankruptcy Rules Local Rule 9013-2, Bankruptcy Rule 9006, and section 105(a) of the Bankruptcy Code.

BASIS FOR RELIEF REQUESTED

9. Bankruptcy Rule 9006(c)(1) authorizes the Court, for cause shown, to reduce the notice period required under Bankruptcy Rules. Elliman submits that ample cause exists to shorten the notice period provided for under the Bankruptcy Rules with respect to the Motion to Compel on the basis that Elliman's rights to be paid in full *and* timely, i.e., at the closings for the Properties as agreed to by the Debtors, is already significantly undermined given the Debtors did

² Terms used herein but not defined herein shall have the meaning ascribed to them in the Motion to Compel.

not pay the commission at the closing of 285 Property sale, and the Debtors are unwilling to pay the commission for the the upcoming August 9, 2022 closing for the 494 Property.

10. The relevant facts justifying shortened notice are set forth in the Motion to Compel filed contemporaneously herewith and are set forth in the Declarations filed therewith. The salient facts are as follows.

11. First, the Debtor 7th Street Capital 285 LLC and Seventh Street Capital 494 LLC (the “7th Street Debtors”) are obligated under a brokerage agreement to pay the commissions due at closing. (Bartolucci Declaration ¶ 6, Ex. B; Markoff Declaration ¶ 6, Ex. B.)

12. Second, the 7th Street Debtors and their brokers are obligated under the rules and regulations established by Residential Brokerage Division of The Real Estate Board of New York, which govern New York brokers and related transactions concerning co-brokering of real estate transactions. (Bartolucci Declaration ¶ 15, Ex. D; Markoff Declaration ¶ 15, Ex. D).

13. Third, the 7th Street Debtors have benefited from and will continue to benefit from the services Elliman rendered in connection with the sales of the Properties, proceeds from which will enhance the value of the estates and benefit all parties in interest.

14. Accordingly, by this Motion to Shorten, Elliman seeks a hearing on its Motion to Compel on shortened notice.

NOTICE

15. Pursuant to Bankruptcy Rule 9006(c)(1), the Court may shorten time with or without notice. The Debtors, the Official Committee of Unsecured Creditors, the Office of the United States Trustee, counsel to those parties seeking appointment of a Chapter 11 trustee in these proceedings, and any other party so required to receive notice upon order of this Court shall be served with a copy of this Motion to Shorten Time, underlying Motion to Compel, and

the Declarations. In light of the nature of the relief requested herein, Elliman submits that no further notice is required.

16. No previous request for the relief sought herein has been made by Elliman to this or any other Court.

WHEREFORE, Elliman respectfully requests that the Court (i) approve the request for the shortened notice period requested herein, and (ii) grant Elliman such other and further relief as the Court deems just and proper.

Dated: New York, New York
August 5, 2022

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